

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

BONNER FARMS, LTD., et al.,

Plaintiffs,

-vs-

POWER GAS MARKETING &
TRANSMISSION, INC., et al.,

Defendants.

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: CASE NO. 5:04 CV 2188
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: ORDER
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UNITED STATES DISTRICT JUDGE LESLEY WELLS

Before the Court are two midnight motions in limine filed by the defendants (Docket Nos. 146 and 147) and a wee-hours-of-the-morning motion in limine filed by the plaintiffs (Docket No. 148).

The defendants' first motion in limine seeks an order from the Court prohibiting the plaintiffs from introducing into evidence two title examinations prepared by the law firm of Geiger, Teeple, Smith & Haan and from calling B. Scott Haan, an attorney with this firm. (Docket No. 146). The defendants argue in support of their motion that the title examinations and Mr. Haan's testimony are not an issue in this case by virtue of the parties' stipulated facts. Because the parties' have stipulated to the facts bearing on Mr. Haan's testimony regarding the title examinations, the Court will grant this motion in limine of the defendants.

The defendants' second motion in limine seeks an order from the Court

prohibiting the plaintiffs from calling Robert Gessner and Rober Crissinger as witnesses in the plaintiffs' case-in-chief. (Docket No. 147). Mr. Gessner and Mr. Crissinger are witnesses for the defendants. The defendants seek this order on the basis that the these two witnesses were not identified in the plaintiffs' Witness List filed pursuant to an order of this Court. Because the defendants suffer no prejudice or unfair surprise from having their own witnesses called by the plaintiffs, the defendants second motion in limine is denied.

The plaintiffs' motion in limine seeks an order from the Court precluding from the first phase of the trial the introduction of any evidence regarding the alleged taking of gas by plaintiff Bonner Farms, Ltd. from the Pochedly System. (Docket No. 148). Although the first phase of the trial is a narrow inquiry into whether the defendants produced paying quantities of oil or gas from the Bonner and Burrows Wells, evidence addressing whether Bonner Farms wrongfully took gas from the Pochedly System may address a valid defense to the plaintiffs' claims. Accordingly, the Court denies the plaintiffs' motion in limine.

IT IS SO ORDERED.

/s/ Lesley Wells
UNITED STATES DISTRICT JUDGE

Date: 3 December 2007